IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.667 OF 1998

The Municipal Corporation of Greater Mumbai & Anr. .. Appellant

versus

Jaikumar Jain & Ors. .. Respondent

...

Mr. A.Y. Sakhare Sr. Counsel with Mrs Geeta Joglekar for appellant.

Mr. A.H. Mehta for respondents no.1 to 3

CORAM : D.G. KARNIK, J

DATED :28th September 2006.

P.C:-

1. In view of the fact that all the trustees have not been joined as parties to the suit and the original

defendant no.4 has not been properly sued in accordance with Section 6 of Societies Registration Act, learned counsel for the respondent seeks leave to withdraw the suit with liberty to file fresh suit on the same cause of action. He only requests that some time may be granted so that the appellants may not take any action. Mr Sakhare learned counsel for the appellant states that the appellant would not take any action for two weeks in view of the suit notice.

2. At the request for the learned counsel of the plaintiffs (respondents no.1 to no.3 in this appeal) the suit is allowed to be withdrawn with liberty to them to file fresh suit on the same cause of action. The statement of Mr Sakhare that the appellant will not take any action for two weeks is recorded.

3. In view of the withdrawal of the suit, appeal does not survive and is disposed of.

(D.G. KARNIK, J.)